

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

UNITED STATES OF AMERICA,

07 CR 613 (SJ)

-against-

**MEMORANDUM
AND ORDER**

KELVIN ALEXANDER,

Defendant.

X

A P P E A R A N C E S
UNITED STATES ATTORNEY
Benton J. Campbell
United States Attorney
225 Cadman Plaza East
Brooklyn, New York 11201
By: Kathleen Naughton, Esq.
Attorney for Plaintiff

FEDERAL DEFENDERS OF NEW YORK, INC.
16 Court Street – 3rd Floor
Brooklyn, NY 11241
By: Michael P. Padden, Esq.
Attorney for Defendant

JOHNSON, Senior District Judge:

Presently before the Court is a Report and Recommendation (“Report”) prepared by Magistrate Judge Roanne Mann. Judge Mann issued the Report on June 18, 2008, and provided the parties with the requisite amount of time to file any objections. The government filed its objections to the Report on July 2, 2008, and filed a corrected submission on July 3, 2008. The defense did not file any objections to the Report. For the reasons stated herein, this Court affirms and adopts the Report in its entirety.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. See 28 U.S.C. § 636(b)(1). Within 10 days of service of the recommendation, any party may file written objections to the magistrate's report. See id. Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendations. See id. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150 (1985).

Upon observing and hearing the testimony provided by prosecution witnesses, N.Y.P.D. Officers Michael Smith and Frank Desiderato, Judge Mann pointed out various inconsistencies and discrepancies that caused her to find that the government witnesses were not credible. After reviewing Judge Mann's Report and the government's objections, and after reviewing *de novo* those portions of the record to which the objections were made, the Court concludes that the government has not raised any new arguments that would convince this Court to reject Judge Mann's well-reasoned recommendations.

Accordingly, this Court affirms and adopts the Report of Judge Mann in its entirety. The motion to suppress is GRANTED.

SO ORDERED.

Dated: July 10, 2008
Brooklyn, NY

s/Hon. Sterling Johnson, Jr.
Senior United States District Judge